

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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WILLIAM K. DUFFY, KENNETH HUBER,
PHILLIP CAPOBIANCO, JOHN DUFFY, SCOTT
ADRIAN, PAUL O'BRIEN, MARC HERBST,
JAMES HANEY, III, and JAMES PRATT, III, as
Trustees of LOCAL 138 138A & 138B,
INTERNATIONAL UNION OF OPERATING
ENGINEERS WELFARE FUND, LEGAL FUND,
APPRENTICESHIP TRAINING FUND, and
ANNUITY FUND, MICHAEL FANNING as CEO
of the CENTRAL PENSION FUND and WILLIAM
K. DUFFY, JR. as PRESIDENT of LOCAL 138,
138A, & 138B, INTERNATIONAL UNION OF
OPERATING ENGINEERS,

Plaintiffs,

-against-

OYSTER BAY SAND & GRAVEL, INC.,

Defendant.

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APPEARANCES:

Archer, Byington, Glennon & Levine, LLP

Attorneys for the plaintiffs

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Suite 405

PO Box 9064

Melville, NY 11747

By: John H. Byington, III, Esq., of Counsel

NO APPEARANCE

Oyster Bay Sand & Gravel, Inc.

ORDER
10-cv-674 (ADS) (ARL)

SPATT, District Judge.

The plaintiffs commenced this action on or about February 17, 2010 asserting various labor-related claims against the defendant. On January 8, 2011, the Court entered a default judgment against the defendant Oyster Bay Sand & Gravel, Inc., and referred the matter to United States Magistrate Judge Arlene R. Lindsay for an inquest as to damages, appropriate injunctive relief, appropriate attorney's fees, and costs. On May 9, 2011, Judge Lindsay issued a thorough Report recommending that the plaintiff be awarded damages in the amount of:

- \$6,845.50 in unpaid fringe benefits;
- \$2,884.43 in interest on the delinquent contributions;
- \$2,884.43 in liquidated damages; and
- \$6,096.04 in attorneys' fees and costs.

To date, no objection has been filed to Judge Lindsay's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's

Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Lindsay's Report and Recommendation is adopted in its entirety; and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the defendants in the amount of \$12,614.36 in damages, plus \$6,096.04 in attorneys' fees and costs; and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 6, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge